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C O N F I D E N T I A L SECTION 01 OF 02 HARARE 001887

SIPDIS

STATE FOR AF FOR A/S KANSTEINER AND PDAS SNYDER; AF/S FOR
DELISI AND RAYNOR; AF/PDPA FOR DALTON, MITCHELL AND SIMS
NSC FOR JENDAYI FRAZER
LONDON FOR GURNEY
PARIS FOR NEARY
NAIROBI FOR PFLAUMER
GUATEMALA CITY FOR DCM WHARTON

E.O. 12958: DECL: 09/16/2013

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SUBJECT: GOZ UPS THE ANTE ON CLOSURE OF ONLY INDEPENDENT
DAILY NEWSPAPER

Classified By: JPolacheck for reasons 1.5 b/d

11. (C) SUMMARY In the span of six days, from September 11 to 16, the GOZ has gone from declaring The Daily News (TDN) illegal (9/11; ref a), to occupying and shutting down TDN operations (9/12; ref b), to accepting TDN registration under the onerous Access to Information and Privacy Protection Act (AIPPA) (9/15), to finally raiding the offices and seizing tangible assets of the company (9/16; ref c). After the September 11 Supreme Court ruling, all GOZ actions occurred without warrants, courts orders, etc. Simultaneously, President Mugabe reportedly told the South African Vice-President that he was unaware these police actions and implied that the situation would be rectified. Executives with TDN are divided as to what course of action to take.
END SUMMARY

Hope springs eternal

12. (SBU) Associated Newspapers of Zimbabwe (ANZ) CEO Sam Nkomo told mission personnel on September 15 that TDN would be back on the streets by the next day as they felt they had complied with the Supreme Court ruling. Earlier that morning, Gugulethu Moyo, legal counsel for ANZ, went to the Media and Information Commission (MIC) to attempt to register ANZ as a media company as required under section 66 of AIPPA. Public comments were made by the MIC chairman stating that there was no point in ANZ "approaching MIC with dirty hands," a reference to the earlier court case during which ANZ had not registered with the MIC while challenging AIPPA on constitutional grounds. Despite this, Moyo was treated professionally at the MIC while successfully filing a preliminary request for registration. AIPPA stipulates that once a request for registration is submitted, the media house is legally entitled to operate while the request was pending. TDN thus expected to be allowed back into their premises, which were occupied by armed police, and to recommence publication immediately.

13. (C) Criminal charges against Nkomo for running an illegal company were not filed on the 15th as expected, which Moyo said gave hope for a negotiated settlement. Another reason for hope was that Nkomo heard from the ANZ owner, based in SA, that Vice-President Jacob Zuma of South Africa called Mugabe regarding the actions against TDN and that Mugabe reportedly claimed not to have known about the impending action and assured the GOSA that TDN will be allowed to operate again.

You can't get a flock of chickens to run straight

14. (SBU) Editor-in-Chief of ANZ, Francis Mdlongwa told emboffs on September 15 that he resigned earlier that day over a long-standing dispute with Nkomo over chain of command issues. He revealed that in an emergency executive meeting of the ANZ held September 10 to discuss the Supreme Court ruling declaring their operations illegal, Nkomo was the lone voice in favor of immediately registering with the MIC. Mdlongwa voiced unrelenting opposition to registration, arguing it would force TDN journalists to register as well. Individual registration is especially oppressive in this environment because it requires a declaration of one's political affiliation. Regardless, he claimed the parting with Nkomo was cordial and that he would continue to consult with ANZ as needed, but not in a capacity which required him to register. This contradicted the account of his resignation which played on the front page of the government controlled "The Herald" on September 16.

Hope takes a cold shower

15. (SBU) Mdlongwa then talked of the closure of TDN as a result of "orders coming straight from Jonathan (note, Jonathan Moyo, Minister for Information and day-to-day

controller of GOZ-owned media outlets, end note)...but Moyo can't act without consulting with Mugabe." He then said that the GOZ was "going to the wire...testing public opinion in Zimbabwe and the world." He then claimed the GOZ would only get "more repressive everyday and every hour."

Listen to the pessimists

16. (C) A routine phone call to Gugu Moyo the morning of September 16, revealed that the police were at the offices of TDN and were in the process of packing and removing all the assets of ANZ that weren't nailed down. Under the guise of negotiation, the police invited Nkomo and Moyo to TDN offices. On arrival, it was clear to Moyo that negotiations were not taking place that day, as the police arrived with the special weapons Law and Order Maintenance unit and with riot police. Moyo reports the police said they were to take all the assets of the illegal company. Upon asking for a warrant, court order, etc., she was told "if you want a warrant, we'll just arrest you for resisting our operation." At that point, Nkomo left to see counsel to initiate an urgent injunction preventing the police from proceeding. Evening consultations with Moyo indicated that the injunction was filed and yet the police were continuing to cart off big ticket items such as computers. According to TDN technical staff, as long as the police do not begin tearing up the wiring, TDN could be back on the streets using laptops.

Who's next?

17. (SBU) While attempting to document the events of the 16th, two photographers, for AFP and Reuters, fully accredited with the MIC, were detained and their cameras reportedly confiscated. The September 16-edition of the government-controlled "The Herald," in the article covering on TDN crisis said "It also emerged yesterday that the Media Institute of Southern Africa Zimbabwe Chapter (an NGO concerned with press freedom and professionalism, end note) which was making the most noise was also not registered and was operating illegally." MISA officials expressed concern that they were next.

18. (C) COMMENT: What began as a small government victory in the running court battles between GOZ and the rest of society quickly exploded into a full scale attack on the government's most consistent critic. There is no doubt that Min. J. Moyo would have liked to have done this months ago, and was waiting for the slimmest legal pretext. The Herald swipe at MISA appears to indicate that Min. Moyo may use AIPPA to launch his long-awaited pogrom against the independent print media and its supporters. We find it difficult to envision that Moyo has kept Mugabe in the dark about these matters. More likely, the GOZ is measuring the international reaction and whether it can get away with keeping TDN shut down with or without legal pretext. We urge the Department to the maintain strong public position and to interact with other governments and media watchdog institutes to build pressure against repressive GOZ actions.

SULLIVAN